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4000-1

DEPARTMENT OF EDUCATION (ED)

NOTICE OF PROPOSED INFORMATION COLLECTION REQUESTS

AGENCY: Department of Education

ACTION: Notice of Proposed Information Collection Requests

SUMMARY: The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by July 13, 2009. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before [insert the 60th day after publication of this notice].

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget; 725 17th Street, N.W., Room 10222, New Executive Office Building, Washington, D.C. 20503 or faxed to (202) 395-6974 or electronically mailed to OIRA-Submission@omb.eop.gov.

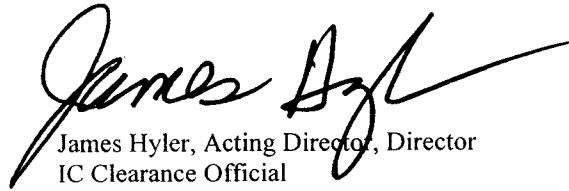
SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Director, Information Collection Clearance Division, Regulatory Information Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might

the Department minimize the burden of this collection on respondents, including through the use of information technology.

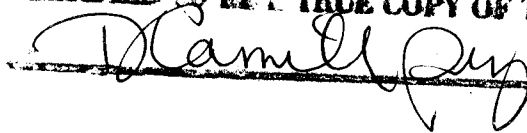
Dated:

JUL 06 2009



James Hyler, Acting Director, Director
IC Clearance Official
Regulatory Information Management Services
Office of Management

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Office of Elementary and Secondary Education

Type of Review: New

Title: Requests for Title I, Part A Waivers

Abstract: The U.S. Department of Education (ED) plans to issue guidance inviting requests for waivers related to the use of fiscal year (FY) 2009 Title I, Part A funds available through the American Recovery and Reinvestment Act of 2009 (ARRA) and requests for waivers related to certain Title I, Part A statutory and regulatory provisions. The guidance will provide information for State educational agencies (SEAs) on how they may apply to ED for waivers and information for local educational agencies (LEAs) on how they may implement the waivers obtained by their SEA.

Additional Information: ED is requesting that the Office of Management and Budget (OMB) approve these information requests on an emergency basis, by July 13, 2009. Approval of these information requests will enable ED to consider requests to waive certain statutory requirements that relate to the use of Title I, Part A ARRA funds. The information collections relate to the information that must be submitted to ED as part of a waiver request, as required by section 9401 of the Elementary and Secondary Education Act (ESEA).

In addition, the Secretary has reviewed the Title I, Part A regulations that were issued in October 2008 (73 FR 64436 (Oct. 29, 2008)) and sent a letter to all Chief State School Officers discussing those regulations. In that letter, the Secretary indicates that he will consider requests for waivers of certain Title I, Part A regulatory provisions, in accordance with his authority under section 9401 of the ESEA. First, as noted in the letter, the Secretary intends to propose for public comment in a notice of proposed rulemaking (NPRM) a repeal of the provision that prohibits a State from approving as a provider of supplemental educational services (SES) a school identified for improvement, corrective action, or restructuring or a district identified for improvement or corrective action (34 C.F.R. § 200.47(b)(1)(iv)(A), (B)). While the rulemaking process is on-going, the Secretary will consider a request to waive this requirement for school year (SY) 2009-10. Such a waiver would allow a State to approve as an SES provider a district or school in improvement. Second, the Secretary also will consider a request for a one-year waiver of the requirement to provide notice of public school choice at least 14 days before the start of the school year if districts cannot comply with that requirement because of their State's current assessment timeline or contract with its assessment vendor. Third, although not discussed in the Secretary's letter to Chief State School Officers, the Secretary will consider requests for waivers that would allow an LEA to provide SES to eligible students attending schools in the first year of improvement and to count the funds providing SES to those students toward the LEA's obligation to spend an amount at least equal to 20 percent of its Title I, Part A allocation on SES and public school choice-related transportation (20 percent obligation). Such a waiver would waive the provisions in section 1116(b)(10) of the ESEA and 34 C.F.R. § 200.48 that limit

the funds spent on SES that an LEA may count toward its 20 percent obligation to funds spent providing SES to eligible students attending schools in the second year of improvement, in corrective action, or in restructuring.

Additionally, the Secretary will also consider requests to waive the maintenance of effort (MOE) requirements in sections 1120A(a) and 9521 of the ESEA.

With respect to requests for waivers related to the Title I, Part A ARRA funds, LEAs are already working with their SEAs to plan Title I, Part A activities for next year. Planning for a Title I, Part A program typically occurs in the spring and summer prior to the next school year. Consequently, in order to plan effectively and on schedule, SEAs and LEAs cannot wait until right before the school year starts to know how to obtain these waivers. OMB approval on an emergency basis would enable ED to provide SEAs and LEAs with timely information about waivers of certain Title I, Part A requirements--information that will be necessary as SEAs and LEAs make crucial decisions about how they will most effectively use Title I, Part A funds, including those available under the ARRA, during summer 2009 and in SY 2009-10. If emergency clearance is not granted, ED will not be able to provide the waiver request information to SEAs and LEAs in time for them to plan successfully. And without proper planning, Title I, Part A services to academically at-risk students, including those supported by the ARRA, would suffer.

Similarly, now that States have received the Secretary's letter regarding the Title I regulations, as soon as possible they need understand the process for how to request a waiver and what information will be required to accompany that request. The Secretary's letter indicates that ED will provide additional information about the process for submitting a waiver request and this waiver guidance keeps that commitment. The waiver process must begin at this time in order for States and LEAs to plan for their implementation of the public school choice notice requirement for SY 2009-10. In addition, if a school or LEA in improvement, corrective action, or restructuring is going to be able to be approved as an SES provider for SY 2009-10, a waiver must be granted before a State completes its process for approving SES providers, or with sufficient time for the State to reopen that process, if it chooses to do so. Likewise, the process for requesting waivers related to the provision of SES to eligible students attending Title I schools in the first year of improvement must begin at this time in order for LEAs to have sufficient time to appropriately plan their implementation of SES. In all three cases, without emergency approval, States and LEAs will not be able to take advantage of the flexibility the Secretary is offering regarding these provisions for the upcoming school year because ED would not be able to provide information regarding how to apply for a waiver until it is too late.

Concerning MOE, in accordance with ED's MOE regulations for ESEA programs (including Title I, Part A) covered by the MOE requirements, States will soon begin identifying those LEAs that failed to maintain

effort in SY 2008-09. Section 9521(c) of the ESEA gives the Secretary the authority to waive the MOE requirements if an LEA experiences an exceptional or uncontrollable circumstance or experiences a precipitous decline in its financial resources. Due to the state of the economy during SY 2008-09, ED expects many more LEAs will have experienced a precipitous decline in their financial resources or an exceptional or uncontrollable circumstance than in prior years, causing them to miss maintaining effort and in turn to seek an MOE waiver from ED. Given these circumstances, the planned waiver guidance specifies the process States may use to obtain MOE waivers from ED for their LEAs. In order for this process to begin in a timely fashion, ED needs emergency approval of the information collection activities in the guidance associated with MOE waivers.

Frequency: One time

Affected Public: State, Local, or Tribal Government

Reporting and Recordkeeping Hour Burden:

Responses: 947

Burden Hours: 29,640

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 4002. When you access the information collection, click on "Download Attachments" to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, LBJ, Washington, D.C. 20202-4537. Requests may also be electronically mailed to the Internet address ICDocketMgr@ed.gov or faxed to 202-401-0920. **Please specify the complete title of the information collection when making your request.**

Comments regarding burden and/or the collection activity requirements should be electronically mailed to ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.